

1 Ramon Rossi Lopez (admitted *pro hac vice*)  
2 (CA Bar No. 86361)  
3 LOPEZ McHUGH LLP  
4 100 Bayview Circle, Suite 5600  
5 Newport Beach, CA 92660  
6 rlopez@lopezmchugh.com

7 Mark S. O'Connor (011029)  
8 BEUS GILBERT PLLC  
9 701 N 44th Street  
10 Phoenix, AZ 85008  
11 Telephone: (480) 429-3019  
12 moconnor@beusgilbert.com

13 *Attorneys for Plaintiffs*

14 James R. Condo (#005867)  
15 Kristine L. Gallardo (033975)  
16 SNELL & WILMER L.L.P.  
17 One Arizona Center  
18 400 E. Van Buren, Suite 1900  
19 Phoenix, AZ 85004-2202  
20 Telephone: 602.382.6000  
21 Facsimile: 602.382.6070  
22 jcondo@swlaw.com  
23 kgallardo@swlaw.com

24 Richard B. North, Jr. (admitted *pro hac vice*)  
25 Georgia Bar No. 545599  
26 Matthew B. Lerner (admitted *pro hac vice*)  
27 Georgia Bar No. 446986  
28 NELSON MULLINS RILEY &  
SCARBOROUGH LLP  
201 17th Street, NW / Suite 1700  
Atlanta, GA 30363  
Telephone: 404.322.6000  
Facsimile: 404.322.6050  
richard.north@nelsonmullins.com  
matthew.lerner@nelsonmullins.com

*Attorneys for Defendants C. R. Bard, Inc. and  
Bard Peripheral Vascular, Inc.*

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products  
Liability Litigation,

No. 2:15-MD-02641-DGC

**THE PARTIES' JOINT STATUS  
REPORT FOR THE MARCH 15,  
2019 CASE MANAGEMENT  
CONFERENCE REGARDING THE  
SIMON NITINOL FILTER**

1 In accordance with Case Management Order No. 41 [Doc. 15176], the Parties hereby  
2 submit their Joint Status Report for the March 18, 2019 Case Management Conference  
3 regarding the Simon Nitinol Filter (SNF) cases:

4 In CMO 41, the Court directed Plaintiffs' lead counsel to "contact and confer with  
5 attorneys representing SNF clients in this MDL proceeding" and to "inform [those]  
6 attorneys that the Court is requiring them to organize into a plaintiff's steering committee  
7 for SNF case" and to assist in the management of those cases. (Para 2, CMO 41).  
8 Thereafter, the members of the SNF PSC were to meet and confer with defense counsel on  
9 a schedule relating to the five topics that identified in the parties' January 28, 2019 joint  
10 status report. (Para 2, CMO 41).

11 Since CMO 41 was entered, Plaintiffs' lead counsel in the current MDL has  
12 represented that they have contacted all known attorneys who represent a plaintiff in the  
13 SNF cases transferred to this MDL proceedings in writing, asking for them to take  
14 leadership roles in the SNF cases. That global communication was followed with further  
15 communications with some who expressed some interest in taking on a leadership or  
16 committee position for the matters that will be addressed in this MDL relating to SNF cases,  
17 only. One of those attorneys, Nicole Maldonado, has expressed a willingness to serve on a  
18 steering committee for the SNF cases, but because she has not been involved in the MDL  
19 to date (and therefore does not have a background to serve as lead counsel), she is not  
20 willing to serve as lead counsel. The Plaintiffs' lead counsel have encouraged Ms.  
21 Maldonado to attend the hearing set for March 18, 2019, and have identified a couple of  
22 additional attorneys who are likewise willing to serve on a Steering Committee, but are  
23 similarly reluctant to take on a lead counsel role. Plaintiffs' lead counsel will be prepared  
24 to discuss this at the March 18 hearing, or in a telephone conference in lieu of a personal  
25 appearance, as defense counsel suggests, below, and offer recommendations that may assist  
26 in rectifying this current situation.

27 Therefore, while, Defendants have been and are prepared to meet and confer  
28 regarding the following five topics outlined in the parties' previous joint submission, there

1 is currently no one from a plaintiff leadership perspective who is available to meet and  
 2 confer with Defendants regarding these issues:

- 3 (1) What additional fact discovery, if any, needs to be undertaken regarding the  
 4 SNF filter;
- 5 (2) A schedule for the completion of that fact discovery (if any);
- 6 (3) A schedule for the completion of expert discovery;
- 7 (4) A schedule for any *Daubert* motions pertaining to experts designated to testify  
 8 about the SNF: and
- 9 (5) A proposal for the ultimate resolution of the cases (an abbreviated bellwether  
 10 process; post-discovery remands, etc.).

11 (Doc. 14870).

12 Given these circumstances, the Defendants and the Plaintiffs' lead counsel in the  
 13 MDL regarding retrievable filters are uncertain as to how to proceed. If the Court is so  
 14 inclined, one possibility would be to cancel the hearing scheduled for 3/18, and schedule a  
 15 later hearing with some sort of "show cause" order requiring all plaintiffs' attorneys  
 16 prosecuting SNF cases to attend, to devise a leadership structure for those cases. As another  
 17 alternative, the Court could possibly issue an order requiring the attorneys representing  
 18 plaintiffs with SNF cases either present the Court with a proposed management structure  
 19 for the discovery and resolution of their cases, or have them dismissed for want of  
 20 prosecution. The Defendants and the Plaintiffs' lead counsel welcome the Court's direction  
 21 as to how to proceed under these circumstances.

22 //

23 //

24 //

25 //

26 //

27 *(Signatures on Following Page)*

28

Respectfully submitted, this 13<sup>th</sup> day of March, 2019.

LOPEZ McHUGH, LLP

NELSON MULLINS RILEY &  
SCARBOROUGH LLP

By: s/ Ramon Rossi Lopez

Ramon Rossi Lopez  
(admitted *pro hac vice*)  
CA Bar No. 86361  
LOPEZ MCHUGH LLP  
100 Bayview Circle, Suite 5600  
Newport Beach, California 92660

By: s/ Richard B. North

Richard B. North, Jr. (admitted *pro hac vice*)  
Georgia Bar No. 545599  
Matthew B. Lerner (admitted *pro hac vice*)  
Georgia Bar No. 446986  
NELSON MULLINS RILEY &  
SCARBOROUGH LLP  
201 17th Street, NW / Suite 1700  
Atlanta, GA 30363

Mark S. O'Connor (011029)  
BEUS GILBERT PLLC  
701 N 44th Street  
Phoenix, Arizona 85008

James R. Condo (005867)  
Kristine L. Gallardo (033975)  
SNELL & WILMER L.L.P.  
One Arizona Center  
400 E. Van Buren, Suite 1900  
Phoenix, Arizona 85004-2202

Attorneys for Plaintiffs

Attorneys for C. R. Bard, Inc. and Bard  
Peripheral Vascular, Inc.

Nelson Mullins Riley & Scarborough

LLP  
201 17<sup>th</sup> Street NW, Suite 1700  
Atlanta, GA 30363  
(404) 322-6000

**CERTIFICATE OF SERVICE**

I hereby certify that on March 13, 2019, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

/s/ Richard B. North  
Georgia Bar No. 545599